

ZONING BOARD OF ADJUSTMENT  
268B MAMMOTH ROAD  
LONDONDERRY, NH 03053

DATE: MARCH 18, 2009

CASE NO.: 3/18/2009-2

APPLICANT: MICHAEL AND THERESA MCDUFF  
SANDRA ROSE-BONANNO  
511 MAMMOTH ROAD  
LONDONDERRY, NH 03053

LOCATION: 511 MAMMOTH ROAD, 15-135, C-I

BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR  
YVES STEGER, VOTING MEMBER  
NEIL DUNN, VOTING MEMBER  
BARBARA DILORENZO, VOTING MEMBER  
JIM SMITH, NON-VOTING ALTERNATE  
MICHAEL GALLAGHER, NON-VOTING ALTERNATE  
MATTHEW NEUMAN, NON-VOTING ALTERNATE  
LARRY O'SULLIVAN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: USE VARIANCE TO ALLOW A FOUR-UNIT MULTI-FAMILY DWELLING IN THE C-I ZONING DISTRICT WHERE OTHERWISE NOT PERMITTED BY THE TABLE OF USES, SECTION 2.2

PRESENTATION: Case No. 3/18/2009-2 was read into the record with no previous cases listed.

VICKI KEENAN: Can the applicant come up to the microphone? State your name for the record.

MICHAEL MCDUFF: I have some forms...

LARRY O'SULLIVAN: We'll take them, thanks.

MICHAEL MCDUFF: My name is Michael McDuff. I reside at 511 Mammoth Road with my wife, Terri, my daughter Sandra and her husband, John. I don't know where to begin but I'll start with the packet that I have provided you with [see Exhibit "A"]. This happens to be a newspaper clipping so you'll be familiar with the property that we're talking about. "To the Zoning Board of Londonderry,

NH: On February 14, 1996, my wife Terri and I sat in a realtor's office in Salem, planning to sign a Purchase and Sale Agreement on a home located in Derry on Hampstead Road, when to our surprise, it fell through because of our intent to convert the existing home and barn on the property into two (2) apartments in order to have our two (2) daughters and their families share residence with us. We were informed of a moratorium on two-family homes and it was enforced, ending the possibility of us purchasing that particular home. While discussing with our realtor our next move, a fax was brought into the office stating that a home located in Londonderry at 511 Mammoth Road had just become available as a multi-family, C-I zoning/business," and I have a copy of that document behind this letter. If you take a minute to look at that, where the remarks are, it was noted that it was a "Fannie Mae foreclosure, special financing offered, extraordinary Victorian with some period décor. Flexible Use," it was "Multi-family, C-I zoning/business. Municipal water and sewer, some asbestos in basement, addendums and pre-qualifications required." Going back to the letter, "We then drove to Londonderry to see the house. We fell in love with it, suiting our needs for our family. The Bonanno's (daughter, her husband and two grandsons), lived in the Carriage House, and the Petells (daughter, her husband and two grandchildren), lived on the second floor and my wife and I on the first floor. A close friend my wife worked with and her husband and son lived in the in-law apartment. Since 1996, all the apartments have been occupied and are to this present day." On the first floor, Terri and I live there and we've been there since '96. The second floor, the Petells and then we had the Wendts and then the Fowlers, Debbie Wyer and Varadarajan, the Trows, who is now Sandra and her husband with our two grandsons. The Carriage House, Sandra actually was the first in '96 to live in the Carriage House. She moved into the second floor of the house. And then the Heins, the Hendricks and the Preebes who presently live there. In the in-law apartment, we had the Sheas, Bottcher and McLellan and Perry's been with us for nine (9) years living in that apartment. "All four (4) units," which document two (2) will show that, "have had their own kitchen, bath, individual electric power, four (4) individual heating systems, two (2) with oil/forced hot water and one with oil/steam and one with electric heat." On that document two (2), it was a letter that was sent to me by my request from the Public Service of New Hampshire. "Dear Michael McDuff: I have researched your address at 511 Mammoth Road, Londonderry, New Hampshire and have found you have four (4) electric meters. The meter for the Carriage House was changed or installed in 1993. The meter for the first floor was changed or installed in 1959. The meter for the first floor rear was changed or installed in 1995. The meter for the second floor was changed or installed in 1984." And these electric meters were all prior to us even moving into this home. Presently, in the basement, there are four (4)-one hundred (100) amp disconnect switches and then at each unit, again, there is a hundred (100) amp disconnect with breaker distribution panel accessible to each of the tenants. So, that has always been intact since the day we moved in and because we bought a foreclosure, we never really had the opportunity to talk to the prior homeowner. We paid lawyers and realtors good money to search the title and everything else and that's the way it came across to us that it was a four (4) unit home. The next piece of document I wanted to show you was, this was dated...I downloaded this from the computer on 10/28/04 and this is a copy of the assessment card here in the Assessors Office in Londonderry and the narrative description, "This property contains 2.6 acres of land, mainly classified as AP [sic] four (4) to eight (8) with an antique style building, built about 1750, having clapboard exterior and asphalt roof cover, with four (4) units, twenty (20) total rooms, eight (8) total bedrooms, five (5) bathrooms, zero (0) halves and zero (0) three-quarter baths." So, the point being is my wife and I were both kind of taken back when we got a letter from the Building Inspector saying that this house was a legal two-family, not a legal four (4) family. And yet we have been

functioning like this since the day we bought it. Also, I have had this house refinanced three (3) times, keeping up with the taxes, keeping up with repairs and maintenance, putting in new driveways, a hundred and eighteen (118) windows in this facility. I had a couple of appraisals done when I thought the taxes were heavy and this one here, effective 2/14/2007, you don't have a copy of that but I have it right here if you'd like to look at it, it says, "zoning compliance," and it's checked off as legal. And then down on the bottom here, again, it has four (4) units listed with the rooms, the bedrooms, the bathrooms, the kitchens and I also have with me here the leases that we have had since 1996 with the various tenants we've had there. Also, since the time we purchased this home, we were financed by FIS Insurance here in town and it was always as a multi-family home, which cost me more money to insure the house and even to the point where I have documents here that can show you where the insurance company sent letters to us stating that the diving board had to come off the swimming pool and if we had a slide, that had to be removed, and to the point where if the house ever burnt to the ground and there was a diving board or a slide on that pool, the insurance would be null and void. So, I mean, when I say we were taken back by the letter and amazed that the house was only a legal two-family when we have been under the assumption and using it all these years, it's gonna create a tremendous hardship for us because, as an example, the taxes, when I bought the house, was six thousand, nine hundred (6, 900) dollars. Today, they're just bridging twelve thousand (12,000) dollars. And the fact that I had the house financed three (3) different times, I mean, I paid lawyers and realtors to research the house to purchase or to satisfy the banks, and each time there was no problem. On the forms that I supplied you with, I also just wanna reiterate a few things. We have always been good neighbors with our abutters and we have respected their property. We've always been conscientious about maintaining our property so it didn't become a hindrance or unsightly for our abutters.

VICKI KEENAN: It would actually be helpful for the Board if you could walk through that application.

MICHAEL MCDUFF: You know, I didn't bring it with me.

VICKI KEENAN: Do we have an extra copy?

LARRY O'SULLIVAN: Yeah.

VICKI KEENAN: Yeah.

MICHAEL MCDUFF: That and the letter from the Building Inspector, I...it must be on the dining room table amongst all the papers.

VICKI KEENAN: No worries.

LARRY O'SULLIVAN: Not a big deal. We're happy to loan it to you.

MICHAEL MCDUFF: Where do you want me to start? Right from the beginning?

VICKI KEENAN: Yes, please.

MICHAEL MCDUFF: Okay. Applicant's name, McDuff, Michael and Theresa...

VICKI KEENAN: Actually, you can start at point four (4).

MICHAEL MCDUFF: Oh, okay.

VICKI KEENAN: Mmm-hmm. I'm sorry.

MICHAEL MCDUFF: A variance requested from Section 2.2 of the zoning ordinance to permit...allow a four (4) unit, multi-family dwelling in a C-I zone where not permitted by Table of Uses. Facts supporting this request, (A), the proposed use would not diminish surrounding property values because this residence has been the home of four (4) families since 199...I put seven (7) but it was actually 1996. My wife corrected me on that. There have been numerous improvements on the grounds, example, new pavement, well kept lawns and also with consideration for our neighbors. (B), granting the variance would not be contrary to the public interest because nothing will change as it has always been a four (4) family dwelling ongoing, improvements as acknowledged by our neighbors. We have had many compliments from the neighbors and notes of appreciation, especially from Bockmon Mobile Trailer Home Park there. They have appreciated the fact that we maintain the grounds. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship. The zoning restriction as applied to the property interferes with the landowner's reasonable use of the property, considering the unique setting of the property in its environment such that this property abuts Bockmon Mobile Home Park on the left side and the rear property line where multiple mobile homes exist. More than thirty (30) homes are in that park. And that's just a guesstimate. We feel that our present four (4) family unit hasn't had any negative effect on this mobile home park. On the right side of the property line, it consists of undeveloped land and then the front actually being Mammoth Road. Two (2), no fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restrictions on the property because I believe that relief can be granted to this property without frustrating the purpose of the ordinance because without our knowledge of the ordinance, we have been existing since 1996 as a four (4) family residence. Three (3), the variance would not injure the public or private rights of others since...and I put no, it would not. We have always been considerate of our neighbors by maintaining our own property and being considerate of their property. (D), granting the variance would do substantial justice because to be able to continue the harmony that has existed in this home since 1996. The children of two (2) families attend Londonderry schools. The third tenant, a single woman, has lived here over eight (8) years and also grew up in Londonderry. The owners are senior citizens and reside in the first floor. Our daughter, son-in-law and grandchildren live on the second floor. When we first...oh, and then the use is not contrary to the spirit of the ordinance because when we first purchased this home, to my recollection, this property was zoned commercial/industrial/multi-family/single residence. This property was set up with four (4) individual heating systems, four (4) electric meters with separate shut-offs and four (4) separate units.

VICKI KEENAN: Do you have anything else you wanna tell the Board?

MICHAEL MCDUFF: No, not unless my wife does. No. And my daughter Sandra?

SANDRA BONANNO: Mm-mmm.

VICKI KEENAN: Okay.

MICHAEL MCDUFF: No?

VICKI KEENAN: We'll bring it back to the Board for questions.

NEIL DUNN: I'm a bit confused. Maybe if I...can I ask Rich something here?

LARRY O'SULLIVAN: Of course.

NEIL DUNN: When I look at the online card, it says a four (4) family unit on the computer.

VICKI KEENAN: Yeah.

NEIL DUNN: So, I'm confused.

RICHARD CANUEL: Okay. Maybe it would help if I give a little bit of history.

VICKI KEENAN: Mm-hmm.

RICHARD CANUEL: First of all, this came about when there was an inquiry on the property, which I believe, by a realtor back in the later part of last year. In the search of our records, as far as we're concerned in the Building Department, there have only been permits issued for that building as a two (2) family structure. The building existed as a two (2) family in the main house with the Carriage House. There was a permit issued in '92 to convert that Carriage House into a living unit. As part of that permit, the second floor of the existing house was to be renovated to eliminate that second unit, to maintain the two (2) units in that structure and keep it conforming. Because the property was changed from a residential zoning district to commercial some years ago, that pretty much makes that use existing nonconforming.

NEIL DUNN: Mm-hmm.

RICHARD CANUEL: Of course, it enjoys that legal status because it existed prior to the change of the ordinance. Looking at the assessing cards, back as far as 1969, up until 2004, the property was shown as two (2) units. Something happened between the time in 1992 when the conversion happened to the property and 2004, the property was converted without permit approval into four (4) units at some point in time, as best I can determine from our records. So, based on the information that the owner provides me, I can't say it legally exists as a four (4) family unit. That's not my determination. I'd be exceeding my authority if I did that. That has to come to this Board to legalize that. So as I say, in the best determination that I can make on the records that I have, even referring to the assessing records, the unit existed as a two (2) family unit. I don't know what happened between communication between our department and the Assessing Department. Usually

when there's a change like that, the Assessing Department will notify us. Had that happened, we probably would have known in 2004 that the building was converted to four (4) units and could have taken action then. Well, miscommunication doesn't make it right, so, that's where we're at today.

LARRY O'SULLIVAN: And the other part of that is because you didn't know, it doesn't make it right. And because your lawyers don't get paid to determine how you're going to use that property, they don't really care when they do a title search on that type of thing. That's what our Building Department does here.

VICKI KEENAN: Neil?

NEIL DUNN: I'm still a bit confused, though. So, when I go to the Town database and I pull up the card that we have on them and it says 'a four (4) unit building...'

RICHARD CANUEL: Mm-hmm.

NEIL DUNN: And you're saying, well, your records don't substantiate that, what am I supposed to believe? I'm looking at this as being the document that says it's a four (4) unit building and that's what the banks based it on and everybody else.

RICHARD CANUEL: Yeah, I'm saying our records don't substantiate the conversion. As far as we were concerned, up until 1992, that was still a two (2) family dwelling. We have no records that show that building was ever converted to a four (4) unit building.

LARRY O'SULLIVAN: So there were never permits pulled for any of the upgrades to the sewer or...

RICHARD CANUEL: Nothing. And until some activity happens on the property, we would never know and what happened was a realtor came into the office to inquire about the property and that's when we researched the records and found, 'oh, by the way, this is four (4) units, not two (2),' so...

BARBARA DILORENZO: That was too bad.

NEIL DUNN: So then what is the legal document today? Your old records or this document that says it's a four (4) unit? I guess I'm still confused.

RICHARD CANUEL: As far as I'm concerned, the legal record is what we have in the permit file, which says it's a two (2) family unit. Unless there are permits issued to do anything else, that's what it shall remain.

LARRY O'SULLIVAN: The real estate appraisal card is used for taxes. It's not used for what we need it for.

VICKI KEENAN: Let's keep this part for deliberations if we can. Maybe let's ask the applicant questions and just keep that...

NEIL DUNN: Well, I know, but before we went there...

VICKI KEENAN: Yeah.

NEIL DUNN: ...I wanted to get some clar...I mean, I'm...

VICKI KEENAN: Yeah, we should.

RICHARD CANUEL: Yeah, and like I say, you know, most cases, when there's a change like that, the Assessing Department will notify us.

VICKI KEENAN: Mm-hmm.

RICHARD CANUEL: You know, what happened in this particular situation, I don't know. Unless we happened to know that there's some activity on the property, we wouldn't know to look at the record.

VICKI KEENAN: Okay.

YVES STEGER: Just for information, would tax more if there are four (4) families than two (2)?

RICHARD CANUEL: Of course, sure. Yeah.

YVES STEGER: Oh.

VICKI KEENAN: Jim?

JIM SMITH: I think one of the things you have to think about on the Assessor, they're going in and looking at the property and just making a determination of what is there at that moment. They're not trying to figure out how it got there. They're just making an evaluation of what they see at that moment. That's all they're doing.

VICKI KEENAN: Okay. Do you have a question, Barbara?

BARBARA DILORENZO: I have a question.

VICKI KEENAN: Okay.

BARBARA DILORENZO: Is it...I don't know whether I should bring this up now or during deliberation or whatever but is it possible that if you went in there today and looked at the new things that have been done to make the other two (2) apartments and if it's up to code, would that be acceptable?

RICHARD CANUEL: Well...okay, let me try to answer that in another way. If the applicant were to come in the office today and apply for a building permit to convert the two (2) family into a four (4)

family, that permit would be denied simply because multi-families are not allowed in a Commercial-I district. So, the permit would not be issued in the first place. So then the applicant would be here requesting a variance to be allowed to convert it to the four (4) from the two (2). Looking at the building today as it exists, I couldn't make a reasonable determination that that meets the requirements of the code because the construction is completed. It's sort of after the fact at this point.

BARBARA DILORENZO: Okay.

YVES STEGER: What was the zoning prior to the change to a C-I?

RICHARD CANUEL: It was residential, AR-I.

YVES STEGER: AR-I?

RICHARD CANUEL: Yeah, it was an AR-I zone.

YVES STEGER: Which, even in an AR-I, the maximum is two (2) family home.

RICHARD CANUEL: That's right. That's right.

YVES STEGER: Only an R-III would allow multi-family.

RICHARD CANUEL: That's right.

LARRY O'SULLIVAN: Even in the '90's, right?

YVES STEGER: Even in the '90's, yes.

LARRY O'SULLIVAN: I guess one of the issues that I'd like to ask about is the sewer. Your septic or what you're using for sewer.

MICHAEL MCDUFF: We're on public sewer.

RICHARD CANUEL: Yeah.

LARRY O'SULLIVAN: So...

MICHAEL MCDUFF: Public water, public sewer.

LARRY O'SULLIVAN: Okay, good. Thank you.

YVES STEGER: That's it.

VICKI KEENAN: Any more questions from the Board? Okay, is there anyone in the audience that is in favor of this request that would like to speak? Anyone that is opposed to this request that would

like to speak? Okay, we will close the public comment section and we'll deliberate amongst ourselves. Okay?

DELIBERATIONS:

YVES STEGER: This is not funny for the applicant.

VICKI KEENAN: No, not at all.

YVES STEGER: But it is bizarre.

LARRY O'SULLIVAN: It is totally different. I had some questions about two (2) and three (3) that...

VICKI KEENAN: Yeah, should we walk through the five (5) points of law maybe and just...

JIM SMITH: Yeah.

LARRY O'SULLIVAN: Stick with those.

VICKI KEENAN: ...speak to each one. I think it will help frame our discussion maybe if we walk through the five (5) points of law and have a discussion about each one. Okay. So, the first, the proposed use would not diminish surrounding property values.

NEIL DUNN: Oh, I don't think so.

LARRY O'SULLIVAN: I don't think we'd have any issues there, despite the fact that it's a four (4) family as opposed to a two (2) family.

VICKI KEENAN: I agree with you. Granting the variance would not be contrary to the public interest.

YVES STEGER: They've been doing it for thirteen (13) years.

BARBARA DILORENZO: Yeah.

VICKI KEENAN: Right. Okay.

LARRY O'SULLIVAN: Despite the fact that it's been done for thirteen (13) years, what we're really talking about is this particular property, if it gets a variance, it is forever. Remember that, it goes with the land.

YVES STEGER: Mm-hmm. Mm-hmm.

LARRY O'SULLIVAN: So, forever and ever, this can be a four (4) family. So whatever happens next door, or whatever happens up the street, this can be a four (4) family. So, if the mobile home park

went away, and it became single family homes, you'd have single family homes abutting a four (4) family home in a commercial zone.

NEIL DUNN: In a commercial zone.

LARRY O'SULLIVAN: Okay, so just to be aware of that.

VICKI KEENAN: Okay. The zoning restriction as applied to the property interferes with the landowner's reasonable use of the property considering the unique setting of the property in the environment in which it's in.

LARRY O'SULLIVAN: The notes that I made on that one was that it abuts the mobile home on the side and the rear of the property. So that's the use of another lot as opposed to the characteristics of the lot, the physical characteristics. Is there anything unusual about it? I think because they have more than two (2) acres of land and it abuts what is today a mobile home park, they have some distinguishing characteristics right there.

NEIL DUNN: Well...

LARRY O'SULLIVAN: Beyond that, how that makes for a reasonable use as opposed to a two (2) family which is allowed, which we had allowed for, you know, umpteen years...

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: ...on what must be at least a sixty (60) or seventy (70) year old home.

YVES STEGER: So, the applicant did not really address this completely. And actually, you are making up the additional explanation, then I would say look at the size of that house. This is almost a hotel.

LARRY O'SULLIVAN: It's obvious...

NEIL DUNN: It's huge.

VICKI KEENAN: That's true, right.

YVES STEGER: Okay?

VICKI KEENAN: So...yeah.

YVES STEGER: You could put many more people than just four (4) families. It's not recognized and that's not the way it should be, definitely not in the C-1. Actually the only one allowed in a C-1 would be elderly housing which is not the case either, so...But the fact that it is a huge house on a very large lot definitely makes, to me, makes something special about the property that does not exist somewhere else.

JIM SMITH: Well, I think you can make the argument it is basically an antique house.

YVES STEGER: Yup.

JIM SMITH: And this is one way of preserving this house.

YVES STEGER: That's another point, too.

VICKI KEENAN: Mm-hmm.

LARRY O'SULLIVAN: But it's not a historic home.

YVES STEGER: Yeah.

NEIL DUNN: Eighteen seventy five (1875) it was built.

YVES STEGER: Seventeen fifty (1750).

BARBARA DILORENZO: Seventeen-something.

JIM SMITH: Oh, well...

LARRY O'SULLIVAN: I had eighteen-something...

JIM SMITH: There's a couple different dates there.

BARBARA DILORENZO: Yeah. It has quite a history if I remember right, too.

VICKI KEENAN: Okay. No fair and substantial relationship exists between the general purpose of the zoning and the specific restriction on the property.

JIM SMITH: You could almost use the same arguments for the first...

LARRY O'SULLIVAN: It is the same argument.

YVES STEGER: Mm-hmm.

VICKI KEENAN: For the first...yeah. The variance would not injure the public or private rights of others.

YVES STEGER: ...for the last thirteen (13) years.

VICKI KEENAN: Right.

JIM SMITH: I don't think so.

VICKI KEENAN: I think that's a pass, right? Granting the variance would substantial justice. Can anyone deny that?

NEIL DUNN: No.

VICKI KEENAN: Larry?

LARRY O'SULLIVAN: MICHAEL MCDUFF: ...

VICKI KEENAN: And the use is not contrary to the spirit of the ordinance.

LARRY O'SULLIVAN: I think that's where we're all in agreement that, you know, we are in a C-I zone there and my concern is that here we have what is potentially a historic property. Richard, can I ask you if you're aware if it's on the list of the historic properties that...?

RICHARD CANUEL: I'm not sure if it's on the list. I mean, it would be one of the historic properties and it would fall under our demolition delay ordinance because of the age but I'm not sure if it's actually on the registry or not.

LARRY O'SULLIVAN: Okay. I mean, we have some significance to attach to that as well, so...

VICKI KEENAN: Mm-hmm.

YVES STEGER: And I got your point about the fact that it's gonna go with the land, okay?

VICKI KEENAN: Mm-hmm.

YVES STEGER: But if there is any changes, for example, if somebody says, 'well, I would like to have four (4) dwellings on that property,' then that would be moot because they're gonna have to come back for another approval and we will not do that because it would be a C-I.

LARRY O'SULLIVAN: A significant change.

VICKI KEENAN: You're right.

YVES STEGER: Here it's very different. It's not like doing a change. I mean, if there was a change, probably it would not be acceptable. But the fact that it has been this case for thirteen (13) years, that they have been taxed to that level for thirteen (13) years definitely makes sense to me.

VICKI KEENAN: Mmm.

MATT NEUMAN: Has the Town been taxing it as if it was a four (4) family? Do we know that?

YVES STEGER: I asked that question to Rich that...

RICHARD CANUEL: Since 2004.

LARRY O'SULLIVAN: Only.

NEIL DUNN: The Assessor's card says it is, yeah.

RICHARD CANUEL: Yeah.

YVES STEGER: So, based on that, I mean...

VICKI KEENAN: Definitely.

YVES STEGER: ...probably we goofed, you know?

VICKI KEENAN: Mm-hmm.

YVES STEGER: As the city and there's no point...

LARRY O'SULLIVAN: That's an aside, as far as I'm concerned.

YVES STEGER: Yeah. And we should not...

LARRY O'SULLIVAN: That is absolutely no reason to influence this.

NEIL DUNN: Yeah.

YVES STEGER: We should not have the applicant pay the price for that.

LARRY O'SULLIVAN: Oh, our goof? There is no, yeah, there is no involvement between the Town and the goof, yeah.

VICKI KEENAN: I think the hardship is...

YVES STEGER: It is definitely there.

VICKI KEENAN: ...outweighs...

NEIL DUNN: And I also don't think it's contrary to the spirit because it was a residence before it was converted to a C-I anyway, so, I mean, it was...

VICKI KEENAN: Mm-hmm, I agree with you.

NEIL DUNN: It kind of got trapped up in the rezoning more than whatever happened in between then and now, so...

VICKI KEENAN: Any more discussion? Would anyone like to make a motion?

NEIL DUNN: I'll give it a shot. I'd like to make a motion that we grant case 3/18/2009-2 as the proposal does not diminish the surrounding property values, would not be contrary to the public interest, is in compliance or complies with the use variance three (3) steps, would allow substantial justice to be served to this older property in the neighborhood and is not contrary to the spirit of the ordinance.

VICKI KEENAN: Okay, there's a motion by Neil to approve.

YVES STEGER: I'll second.

VICKI KEENAN: A second by Yves. Any discussion on the motion? Okay, seeing none, all of those in favor, please signify by saying 'aye'.

LARRY O'SULLIVAN: Aye.

YVES STEGER: Aye.

NEIL DUNN: Aye.

BARBARA DILORENZO: Aye.

VICKI KEENAN: Aye. Opposed? Abstentions? Okay.

RESULT: THE MOTION TO GRANT THE USE VARIANCE WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK  
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED APRIL 15, 2009** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY BARBARA DILORENZO AND APPROVED 5-0-0.